

AN ORDINANCE

04-0-0755

BY COUNCIL MEMBER IVORY LEE YOUNG JR.

**AN ORDINANCE TO CHANGE THE EFFECTIVE DATE OF THE "JOHN EAGAN HOMES PHASE I (A.K.A. MAGNOLIA PARK APARTMENTS PHASE I) HOUSING ENTERPRISE ZONE" FROM JANUARY 1, 1999 TO JANUARY 1, 2000, AND TO CHANGE THE EFFECTIVE DATE OF THE "JOHN EAGAN HOMES PHASE II (A.K.A. MAGNOLIA PARK APARTMENTS PHASE II) HOUSING ENTERPRISE ZONE" FROM JANUARY 1, 2000 TO JANUARY 1, 2001, AND FOR OTHER PURPOSES.**

**WHEREAS**, an amendment to the Constitution of the State of Georgia was adopted by referendum in November, 1982 giving the Council of the City of Atlanta power to create urban enterprise zones in the City of Atlanta; and

**WHEREAS**, enabling legislation that is known as the Atlanta/Fulton County Urban Enterprise Zone Act was enacted by the Georgia General Assembly, signed by the Governor in March 1983, and subsequently amended; and

**WHEREAS**, the Atlanta/Fulton County Urban Enterprise Zone Act gives the Council of the City of Atlanta the authority to designate areas within the City as urban enterprise zones for residential purposes; and

**WHEREAS**, Ordinance number 97-O-1286, adopted by City Council on October 6, 1997, and approved by the Mayor in October, 1997, created the John Eagan Homes Phase I Housing Enterprise Zone to become effective on January 1, 1998; and

**WHEREAS**, Ordinance number 99-O-0480, adopted by City Council on May 3, 1999, and approved by the Mayor on May 5, 1999, created the John Eagan Homes Phase II Housing Enterprise Zone to become effective on January 1, 2000; and

**WHEREAS**, the State of Georgia General Assembly's House Bill 477, adopted by the General Assembly and signed into law by the Governor in 1999, amended the Atlanta/Fulton County Urban Enterprise Zone Act to change the effective date of the John Eagan Homes Phase I Housing Enterprise Zone from January 1, 1998 to January 1 of the year immediately following the year when a building permit is first issued for residential development, construction, rehabilitation or any combination thereof in this enterprise zone; and

**WHEREAS**, based on the adoption of House Bill 477 a letter dated December 15, 2000 was sent by a representative of CCH John Eagan I Homes, LP, to the Bureau of Planning of the City of Atlanta requesting written confirmation of the effective date of the John Eagan Homes Phase I Housing Enterprise Zone; and

**WHEREAS**, in response to the letter from John Eagan Homes, LP, a letter dated February 16, 2001 was sent from the Director of the Bureau of Planning of the City of Atlanta, to CCH John Eagan I Homes, LP, stating that based on House Bill 477, the effective date for the John Eagan Homes Phase I Housing Enterprise Zone had been amended to January 1, 2000; and

**WHEREAS**, it has recently been discovered by representatives of CCH John Eagan I Homes, LP, that the February 16, 2001 letter from the Director of the Bureau of Planning of the City of

Atlanta, to CCH John Eagan I Homes, LP, was incorrect, and the effective date was not amended to January 1, 2000, but rather to January 1, 1999; and

**WHEREAS**, John Eagan Homes Phase I enterprise zone has based its financial planning and projections on an effective date of January 1, 2000 as represented in the February 16, 2001 letter from the Director of the Bureau of Planning of the City of Atlanta; and

**WHEREAS**, a damaging fire in September of 1999, which destroyed two buildings and damaged five others, significantly delayed the completion of construction of John Eagan Homes Phase I and the construction of Phase II; and

**WHEREAS**, this fire effectively destroyed the timeline, as well as the effective use of the enterprise zone benefit for this project by delaying Phase I until 2000 and Phase until 2001; and

**WHEREAS**, the State of Georgia General Assembly's House Bill 483, adopted by the General Assembly and signed into law by the Governor in 1999, amended the Atlanta/Fulton County Urban Enterprise Zone Act by giving the Council of the City of Atlanta the authority to change the effective date for local enterprise zones that remain undeveloped as a result of unanticipated development impediments; and

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA HEREBY ORDAINS AS FOLLOWS:**

**Section 1:** The John Eagan Homes Phase I and Phase II Housing Enterprise Zones are hereby amended.

**Section 2:** The effective date of all exemptions established therein shall be January 1, 2000 for John Eagan Homes Phase I, and January 1, 2001 for John Eagan Homes Phase II.. The John Eagan Homes Phase I Housing Enterprise Zone shall be abolished December 31, 2009, and the John Eagan Homes Phase II Housing Enterprise Zone shall be abolished December 31, 2010. The John Eagan Homes Phase I and Phase II Housing Enterprise Zones shall otherwise not be abolished except as provided in State law. A legal description of the John Eagan Homes Phase I Housing Enterprise Zone is attached hereto as "Exhibit A," a legal description of the John Eagan Homes Phase II Housing Enterprise Zone is attached hereto as "Exhibit B," and both are made a part hereof, and shall be on file in the Bureau of Planning and the Office of the Municipal Clerk.

**Section 3:** The Municipal Clerk is hereby directed to transmit a copy of this ordinance as well as a legal description of the John Eagan Homes Phase I and Phase II Housing Enterprise Zones to the Tax Commissioner of Fulton County, to the Commissioner of the Department of Community Affairs of the State of Georgia, and to the Superintendent of the Atlanta Board of Education immediately upon the approval by the Mayor of the City of Atlanta.

**Section 4:** All ordinances and parts of ordinances that are in conflict herewith are hereby repealed.

## **EXHIBIT A**

### **Phase I - Legal Description**

All that tract or parcel lying and being in Land Lot 110 of the 14<sup>th</sup> District of Fulton County (City of Atlanta), Georgia, and being more particularly described as follows:

Commencing at a ½" rebar found at the intersection of the easterly right of way line of McCarthy Street (30 foot total right of way width) and the southerly right of way line of Spencer Street (30 foot total right of way width).

Thence continuing along the southerly right of way line of Spencer Street, north 82 degrees 00 minutes 56 seconds east, 278.08 feet to a nail set in concrete at the intersection of the southerly right of way line of Spencer Street and the westerly right of way line of Taliaferro Street (apparent 40 foot total right of way width).

Thence along the westerly right of way line of Taliaferro Street, south 02 degrees 01 minutes 21 seconds east, 611.97 feet to the Point of Beginning.

Thence leaving the westerly right of way line of Taliaferro Street, north 86 degrees 05 minutes 53 seconds east, 589.39 feet to a point on the westerly right of way line of Brawley Street (apparent 40 foot total right of way width).

Thence continuing along said right of way line, south 00 degrees 49 minutes 23 seconds east, 209.80 feet to a point.

Thence continuing along said right of way line, south 00 degrees 55 minutes 38 seconds east, 167.49 feet to a point.

Thence continuing along said right of way line, south 01 degrees 16 minutes 03 seconds east, 218.21 feet to a nail set at the intersection of the westerly right of way line of Brawley Street and the northerly right of way line of Carter Street (right of way width varies).

Thence along the northerly right of way of Carter Street, south 89 degrees 24 minutes 03 seconds west, 339.20 feet to a point.

Thence continuing along said right of way line, south 89 degrees 15 minutes 51 seconds west, 187.18 feet to a point.

Thence continuing along the northerly right of way line of Carter Street, north 89 degrees 48 minutes 30 seconds west, 210.61 feet to a point.

Thence continuing along said right of way line, on an arc of a curve to the left 125.86 feet (said curve having a radius of 40,447.81 feet and a chord of south 88 degrees 03 minutes 25 seconds west, 125.86 feet) to a ½" rebar and surveyors cap set.

Thence leaving the northerly right of way line of Carter Street, north 13 degrees 52 minutes 05 seconds west, 241.22 feet to a ½" rebar and surveyors cap set.

Thence north 30 degrees 48 minutes 57 seconds west, 355.13 feet to a ½" rebar and surveyor's cap set on the southerly right of way line of Magnolia Street (50 foot total right of way width).

Thence along the southerly right of way line of Magnolia Street, north 87 degrees 26 minutes 14 seconds east, 99.51 feet to a ½" rebar found at the intersection of the southerly right of way line of Magnolia Street and the easterly right of way line of Elijah Street (apparent 40 foot total right of way width).

Thence continuing along the easterly right of way line of Elijah Street, north 01 degrees 36 minutes 35 seconds west, 250.00 feet to a point.

Thence north 89 degrees 23 minutes 15 seconds east, 160.00 feet to a point.

Thence south 01 degrees 36 minutes 35 seconds east, 250.00 feet to a point.

Thence north 86 degrees 05 minutes 53 seconds east, 245.07 feet to the Point of Beginning.

Said tract or parcel containing 13.37 acres.

## **EXHIBIT B**

### **Phase II- Legal Description**

All that tract or parcel lying and being in Land Lot 110 of the 14<sup>th</sup> District of Fulton County, City of Atlanta, Georgia, and being more particularly described as follows:

Beginning at a ½” rebar found at the intersection of the easterly right of way line of McCarthy Street (30 foot total right of way width) and the southerly right of way line of Spencer Street (30 foot total right of way width).

Thence continuing along the southerly right of way line of Spencer Street, North 82 degrees 00 minutes 56 seconds East, 278.08 feet to a nail set in concrete at the intersection of the southerly right of way line of Spencer Street and the former westerly right of way line of Taliaferro Street (apparent 40 foot total right of way width)(abandoned).

Thence continuing along the southerly right of way line of Spencer Street, North 89 degrees 17 minutes 28 seconds East, 40.01 feet to a nail set in concrete at the intersection of the southerly right of way line of Spencer Street and the former easterly right of way line of Taliaferro Street.

Thence still continuing along the southerly right of way line of Spencer Street, North 88 degrees 41 minutes 07 seconds East, 557.90 feet to a nail set at the intersection of the southerly right of way line of Spencer Street and the westerly right of way line of Brawley Street, f/k/a Chestnut Street (40 foot total right of way width).

Thence along the westerly right of way line of Brawley Street, South 01 degrees 41 minutes 23 seconds East, 202.84 feet to a point.

Thence continuing along the westerly right of way line of Brawley Street, South 00 degrees 53 minutes 25 seconds East, 382.06 feet to a point.

Thence South 00 degrees 49 minutes 23 seconds East, 27.54 foot to a point.

Thence leaving the westerly right of way line of Brawley Street, North 89 degrees 59 minutes 12 seconds West, 205.68 feet to a point.

Thence South 85 degrees 55 minutes 22 seconds West, 176.74 feet to a point.

Thence North 89 degrees 54 minutes 44 seconds West, 144.77 feet to a point.

Thence along the arc of a curve to the right 99.91 feet (said curve having a radius of 42.00 feet and a chord of South 50 degrees 18 minutes 22 seconds West. 77.97 feet) to a point on the former westerly right of way line of Taliaferro Street.

Thence leaving the former westerly right of way line of Taliaferro Street, along the arc of a curve to the right of 45.02 feet (said curve having a radius of 42.00 feet and a chord of North 30 degrees 50 minutes 16 seconds West, 42.89 feet) to a point.

Thence South 90 degrees 00 minutes 00 seconds West, 262.57 feet to a point.

Thence North 00 degrees 00 minutes 00 seconds East, 213.31 feet to a point.

Thence South 90 degrees 00 minutes 00 seconds West, 147.88 feet to a point on the centerline of former Elijah Street.

Thence along the centerline of former Elijah Street, North 01 degrees 36 minutes 35 seconds West, 121.28 feet to a ½" rebar and surveyor's cap set at the intersection of the centerline of former Elijah Street and the southerly right of way line of Booker Washington Drive (apparent 30 foot total right of way width).

Thence continuing along the southerly right of way line of Booker Washington Drive, North 88 degrees 01 minutes 21 seconds East, 144.76 feet to a ½" rebar found at the intersection of the southerly right of way line of Booker Washington Drive and the easterly right of way line of McCarthy Street (30 foot total right of way width).

Thence continuing along the easterly right of way line of McCarthy Street, North 01 degrees 45 minutes 42 seconds West, 246.19 feet to the point of beginning.

Said tract or parcel contains 12.7053 acres (553.445 square feet) and is the same property shown as Phase II on that certain survey entitled "Boundary Survey for CCH John Eagan I Homes, L.P., SunTrust Bank, Atlanta (as Trustee), Urban Residential Finance Authority of the City of Atlanta, Georgia, The Housing Authority of the City of Atlanta, Georgia, PNC Bank, National Association, and Stewart Title Guaranty Company", dated June 9, 1997, last revised August 10, 1998, prepared by Seiler & Associates, Inc., and bearing the seal of Keith Seiler, GRLS #2388.

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(Do Not Write Above This Line)

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AN ORDINANCE TO CHANGE THE EFFECTIVE  
DATE OF THE "JOHN EAGAN HOMES PHASE I  
(A.K.A. MAGNOLIA PARK APARTMENTS PHASE I  
HOUSING ENTERPRISE ZONE)" FROM JANUARY  
1, 1999 TO JANUARY 1, 2000, AND TO CHANGE  
THE EFFECTIVE DATE OF THE "JOHN EAGAN  
HOMES PHASE II (A.K.A. MAGNOLIA PARK  
APARTMENTS PHASE II) HOUSING ENTERPRISE  
ZONE: FROM JANUARY 1, 2000 TO JANUARY 1,  
2001, AND FOR OTHER PURPOSES

- ☐ CONSENT REFER  
☐ REGULAR REPORT REFER  
☐ ADVERTISE & REFER  
☐ 1st ADOPT 2nd READ & REFER  
☒ PERSONAL PAPER REFER

Date Referred 4/19/04

Referred To: CD/HR

Date Referred

Referred To:

Date Referred

Referred To:

First Reading

Committee \_\_\_\_\_  
Date \_\_\_\_\_  
Chair \_\_\_\_\_  
Referred To \_\_\_\_\_

Committee

Date

Chair

Action

Fav, Adv, Hold (see rev. side)  
Other

Members

Refer To

Committee

Date

Chair

Action

Fav, Adv, Hold (see rev. side)  
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Committee

Date

Chair

Action

Fav, Adv, Hold (see rev. side)  
Other

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Committee

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Chair

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Fav, Adv, Hold (see rev. side)  
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CERTIFIED

FINAL COUNCIL ACTION  
☐ 2nd ☐ 1st & 2nd ☐ 3  
Readings  
☐ Consent ☐ V Vote ☐ RC Vo

MAYOR'S ACTION